

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

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**SECTION 7.050 Exception.** Facilities in geographic Group 1 (lowest cost) may have their rates calculated based on the highest of the limits within Group 2 (middle cost) or Group 1. This exception is granted if it is to the facility's benefit and is done automatically at the time of ratesetting. In the event an exception is granted, efficiency payments are based on Group 1 limits.

## **SECTION 8.000 DETERMINATION AND ALLOCATION OF FRINGE BENEFITS AND PAYROLL TAXES, FOOD COSTS, AND DIETICIAN CONSULTING FEES**

**SECTION 8.010 Fringe benefits and payroll taxes.** Fringe benefits and payroll taxes must be allocated to case mix, other care-related costs, and other operating costs according to items A to E.

A. For the rate years beginning on or after July 1, 1988, all of the nursing facility's fringe benefits and payroll taxes must be classified to the operating cost categories, based on direct identification. If direct identification cannot be used for all the nursing facility's fringe benefits and payroll taxes, the allocation method in items B to E must be used.

B. Fringe benefits and payroll taxes must be allocated to case mix operating costs in the same proportion to salaries reported under the nursing service category.

C. Fringe benefits and payroll taxes must be allocated to other care-related costs in the same proportion to salaries reported under the other care-related services category.

D. Fringe benefits and payroll taxes must be allocated to other operating costs in the same proportion to salaries reported under dietary, laundry and linen, housekeeping, plant operation and maintenance services, and the general and administrative categories.

E. For any nursing facility that cannot separately report each salary component of an operating cost category, the Department shall determine the fringe benefits and payroll taxes to be allocated under this subpart according to the following:

(1) The Department shall sum the allowable salaries for all nursing facilities separately reporting allowable salaries in each cost category, by cost category and in total.

(2) The Department shall determine the ratio of the total allowable salaries in each cost category to the total allowable salaries in all cost categories, based on the totals in subitem (1).

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(3) The nursing facility's total allowable fringe benefits and payroll taxes must be multiplied by each ratio determined in subitem (2) to determine the amount of payroll taxes and fringe benefits allocated to each cost category for the nursing facility under this item.

(4) If a nursing facility's salary for any nursing, dietary, laundry, housekeeping, plant operation and maintenance, other care-related services and general and administrative operating cost categories, is zero and the services provided to the nursing facility in that operating cost category are not performed by a related organization, the nursing facility must reclassify one dollar to a salary cost line in the operating cost category.

For rate years beginning on or after July 1, 1989, the Department shall include a nursing facility's reported public employee retirement act contribution for the reporting year as apportioned to the care-related operating cost categories multiplied by the appropriate composite index.

**SECTION 8.020 Determination of food costs.** The Department shall determine the costs of food to be included in other care-related costs according to items A and B.

A. For any nursing facility separately reporting food costs, food costs shall be the allowable food costs as reported under the dietary services cost category.

B. For any nursing facility that cannot separately report the cost of food under the dietary services cost category, the Department shall determine the average ratio of food costs to total dietary costs for all nursing facilities that separately reported food costs. The nursing facility's total allowable dietary costs must be multiplied by the average ratio to determine the food costs for the nursing facility.

For rate years beginning on or after July 1, 1987 the Department shall adjust the rates of a nursing facility that meets the criteria for the special dietary needs of its residents. The adjustment for raw food cost shall be the difference between the nursing facility's allowable historical raw food cost per diem and 115 percent of the median historical allowable raw food cost per diem of the corresponding geographic group.

**SECTION 8.030 Determination of dietician consulting fees.** The Department shall determine the dietician consulting fees to be included in other care-related costs according to items A and B.

A. For any nursing facility separately reporting dietician consulting fees, the dietician consulting fees shall be the allowable dietician consulting fees reported under the dietary services cost category.

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B. For any nursing facility that has not separately reported dietician consulting fees, the Department shall determine the average cost per licensed bed of allowable dietician consulting fees for all nursing facilities that separately reported dietician consulting fees. The nursing facility's total number of licensed beds must be multiplied by the average cost per bed to determine the dietician consulting fees for the nursing facility.

## **SECTION 9.000 DETERMINATION OF THE ALLOWABLE HISTORICAL OPERATING COST PER DIEMS**

**SECTION 9.010 Review and adjustment of costs.** The Department shall annually review and adjust the operating costs reported by the nursing facility during the reporting year preceding the rate year to determine the nursing facility's actual allowable historical operating costs.

**SECTION 9.020 Standardized resident days.** Each nursing facility's standardized resident days must be determined in accordance with items A to B.

A. The nursing facility's resident days for the reporting year in each resident class must be multiplied by the weight for that resident class.

B. The amounts determined in item A must be summed to determine the nursing facility's standardized resident days for the reporting year.

**SECTION 9.030 Allowable historical case mix operating cost standardized per diem.** Until July 1, 1999, the allowable historical case mix operating cost standardized per diem must be computed by the standardized resident days determined in Section 9.020.

**SECTION 9.040 Allowable historical other care-related operating cost per diem.** Until July 1, 1999, the allowable historical other care-related operating cost per diem must be computed by dividing the allowable historical other care-related operating costs by the number of resident days in the nursing facility's reporting year.

**SECTION 9.050 Allowable historical other operating cost per diem.** Until July 1, 1999, the allowable historical other operating cost per diem must be computed by dividing the allowable historical other operating costs by the number of resident days in the nursing facility's reporting year.

## **SECTION 10.000 DETERMINATION OF OPERATING COST ADJUSTMENT FACTORS AND LIMITS**

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**SECTION 10.010 Annual adjustment factors through June 30, 1999.** The annual adjustment factors will be determined according to items A and C.

A. The forecasted consumer price index for a nursing facility's allowable operating cost per diems shall be determined using Data Resources, Inc. forecast for the change in the nursing facility market basket between the mid point of the reporting year and the mid point of the rate year. For these purposes, the indices as forecasted by Data Resources, Inc. in the fourth quarter of the calendar year preceding the rate year will be utilized.

B. For rate years beginning on or after July 1, 1994, the Department will index the prior year's operating cost limits by the percentage change in the Data Resources, Inc., nursing home market basket between the midpoint of the current reporting year and the midpoint of the previous reporting year. The Department will use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

C. For the nine month rate period beginning October 1, 1992, the 21-month inflation factor for operating costs in item B shall be increased by an annualization of seven-tenths of one percent rounded to the nearest tenth percent.

**SECTION 10.020 Base year limits.** Until July 1, 1999, for each geographic group the base year operating costs limits must be determined according to items A and B. No redetermination of the base year operating costs limits shall be made due to audit adjustments or appeal settlement. For purposes of this section, a new base year is established for the rate year beginning July 1, 1992, and July 1, 1993.

A. The adjusted care-related limits must be indexed as in Sections 11.010 and 11.020. The adjusted other operating cost limits must be indexed as in Sections 11.030 and 11.040.

B. The Department shall disallow any portion of the general and administrative cost category, exclusive of fringe benefits and payroll taxes, that exceeds the percent of the allowable expenditures in all operating cost categories except fringe benefits, payroll taxes, and general and administrative as in subitems (1) to (3). For the purpose of computing the amount of disallowed general and administrative cost, the nursing facility's professional liability and property insurance must be excluded from the general and administrative cost category. For purposes of this item, the term property insurance means general liability coverage for personal injury incurred on the nursing facility property and coverage against loss or damage to the building, building contents, and the property of others on the premises of the nursing facility. Property insurance does not include any coverage for items such as automobiles, loss of earnings, and extra expenses.

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(1) If the nursing facility's licensed beds exceed 195 licensed beds, the general and administrative cost category limitation shall be 13 percent.

(2) If the nursing facility's licensed beds are more than 150 licensed beds, but less than 196 licensed beds, the general and administrative cost category limitation shall be 14 percent; or

(3) If the nursing facility's licensed beds is less than 151 licensed beds, the general and administrative cost category limitation shall remain at 15 percent.

**SECTION 10.030 Indexed limits.** Until July 1, 1999, the total care related operating cost limit and the other operating cost limit must be determined under items A and B.

A. The annual adjustment factor for case mix and other care related operating costs for the current reporting year as determined in Section 10.010 must be divided by the corresponding annual adjustment factor for the previous reporting year.

B. The annual adjustment factor for other operating costs for the current reporting year as determined in Section 10.010 must be divided by the corresponding annual adjustment factor for the previous reporting year.

## **SECTION 11.000 DETERMINATION OF OPERATING COST PAYMENT RATE**

**SECTION 11.010 Nonadjusted case mix and other care-related payment rate.** Until July 1, 1999, for each nursing facility, the nonadjusted case mix and other care-related payment rate for each resident class must be determined according to items A to D.

A. The nursing home's allowable historical case mix operating cost standardized per diem must be multiplied by the weight for each resident class.

B. The allowable historical other care-related operating cost per diem must be added to each weighted per diem established in item A.

C. If the amount determined in item B for each resident class is below the limit for that resident class and group item C, the nursing facility's nonadjusted case mix and other care-related payment rate must be the amount determined in item B for each resident class.

D. If the amount determined in item B for each resident class is at or above the limit for that resident class and group, the nursing facility's nonadjusted case mix and other care-related payment rate must be set at the limit.

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**SECTION 11.020 Adjusted prospective case mix and other care-related payment rate.**

Until July 1, 1999, for each nursing facility, the adjusted prospective case mix and other care-related payment rate for each resident class must be the nonadjusted case mix and other care-related payment rate multiplied by the case mix and other care-related adjustment factor.

**SECTION 11.030 Nonadjusted other operating cost payment rate.** Until July 1, 1999, the nonadjusted other operating cost payment rate must be determined according to items A and B.

A. If the allowable historical other operating cost per diem is below the limit for that group the nursing facility's nonadjusted other operating cost payment rate must be the allowable historical other operating cost per diem.

B. If the allowable historical other operating cost per diem is at or above the limit for that group the nursing facility's nonadjusted other operating cost payment rate must be set at that limit.

**SECTION 11.040 Adjusted prospective other operating cost payment rate.** The adjusted prospective other operating cost payment rate must be determined according to items A to E.

A. Except as provided in item B, if the nursing facility's nonadjusted other operating cost payment rate is below the limit for that group, the nursing facility's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in Section 11.030, item A, multiplied by the other operating cost adjustment factor plus, for the rate years before July 1, 1999, an efficiency incentive equal to the difference between the other operating cost limits in each geographic group and the nonadjusted other operating cost payment rate in Section 11.030, up to the maximum set forth in Section 11.047, item C.

B. For any short length of stay facility and any nursing facility licensed on June 1, 1983 by the Department to provide residential services for the physically handicapped that is under the limits, the nursing facility's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in Section 11.030, item A, multiplied by the other operating cost adjustment factor determined in Section 10.010, item B, plus, for the rate years before July 1, 1999, an efficiency incentive equal to the difference between the other operating cost limits for hospital attached nursing facilities in each geographic group, and the nonadjusted other operating cost payment rate in Section 11.030, up to the maximum set forth in Section 11.047, item C.

C. If the nursing facility's nonadjusted other operating cost payment rate is at or above the limit for that group, the nursing facility's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in Section 11.030,

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item B, multiplied by the other operating cost adjustment factor determined in Section 10.010, item B.

**SECTION 11.042 Efficiency incentive reductions for substandard care.** For rate years beginning on or after July 1, 1991, the efficiency incentive established in Section 11.047, item C, shall be reduced or eliminated for nursing facilities determined by the Commissioner of health to have uncorrected or repeated violations which create a risk to resident care, safety, or rights, except for uncorrected or repeated violations relating to a facility's physical plant. Upon being notified by the Commissioner of health of uncorrected or repeated violations, the Commissioner of human services shall require the nursing facility to use efficiency incentive payments to correct the violations. The Commissioner of human services shall require the nursing facility to forfeit efficiency incentive payments for failure to correct the violations. Any forfeiture shall be limited to the amount necessary to correct the violation.

**SECTION 11.046 Changes to nursing facility reimbursement beginning July 1, 1996.** The nursing facility reimbursement changes in items A through G are effective for one rate year beginning July 1, 1996. In addition, the Department must determine nursing facility payment rates for this rate year without regard to the changes in this section, the results of which will serve as the basis for allowed costs in the following rate years.

A. Except for purposes of the computation of the efficiency incentive in approved State plan amendment TN 99-10, Section 11.045, item D, which described the methodology for computing a nursing facility's efficiency incentive for rates on or after July 1, 1995, the operating cost limits in Section 10.020, items A and B, and Section 15.138 do not apply.

B. Notwithstanding approved State plan amendment TN 99-10, Section 11.045, item E, subitem (2), which specified that the Nursing Home Market Basket forecasted index for allowable operating costs and per diems was based on the 12-month period between the midpoints of the two reporting years preceding the July 1, 1995 rate year, the operating cost limits in Section 10.020, items A and B are indexed for inflation as in Section 10.010, item B.

C. The high cost nursing facility limit in approved State plan amendment TN 99-10, Section 11.045, item B, which described how the high cost limit was determined for the July 1, 1995 rate year, does not apply.

D. The spend-up limit in approved State plan amendment TN 99-10, Section 11.045, item A, subitem (2), which described the allowable operating cost per diem limit, is modified as in subitems (1) to (3).

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(1) For those nursing facilities in each grouping whose case mix A operating cost per diem is at or above the median plus 1.0 standard deviation of the array, the nursing facility's allowable operating cost per diem for each case mix category is limited to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor in approved State plan amendment TN 99-10, Section 11.045, item E, subitem (2), which specified that the Nursing home Market Basket forecasted index for allowable operating costs and per diems was based on the 12-month period between the midpoints of the two reporting years preceding the July 1, 1995 rate year, or the current reporting year's corresponding allowable operating cost per diem.

(2) For those nursing facilities in each grouping whose case mix A operating cost per diem is between .5 and 1.0 standard deviation above the median of the array, the nursing facility's allowable operating cost per diem for each case mix category is limited to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor in approved State plan amendment TN 99-10, Section 11.045, item E, subitem (2), described in subitem (1), above, increased by one percentage point, or the current reporting year's corresponding allowable operating cost per diem.

(3) For those nursing facilities in each grouping whose case mix A operating cost per diem is equal to or below .5 standard deviation above the median of the array, the nursing facility's allowable operating cost per diem is limited to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor in approved State plan amendment TN 99-10, Section 11.045, item E, subitem (2), described in subitem (1), above, increased by two percentage points, or the current reporting year's corresponding allowable operating cost per diem.

E. A nursing facility licensed by the State to provide services for the physically handicapped shall be exempt from the care related portion of the limit in approved State plan amendment TN 99-10, Section 11.045, item A, subitem (2), which described the allowable operating cost per diem limit.

F. Any reductions to the combined operating cost per diem shall be divided proportionally between the care-related and other operating cost per diems.

G. Each nursing facility's payment rate, except those nursing facilities whose payment rates are established under Section 21.000, are increased by \$.06 per resident per day.

**SECTION 11.047 Changes to nursing facility reimbursement beginning July 1, 1997.** The nursing facility reimbursement changes in items A through L shall apply, in the sequence specified, beginning July 1, 1997.



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A. For rate years beginning on July 1, 1997 or July 1, 1998, the nursing facility's allowable operating per diem for each case mix category for each rate year shall be limited as described below.

For rate years beginning on July 1, 1997 or July 1, 1998, nursing facilities shall be divided into two groups, freestanding and nonfreestanding, within each geographic group. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem is subject to the limits contained in Sections 19.025, 19.030, or 19.035. All other nursing facilities shall be considered freestanding nursing facilities. All nursing facilities in each grouping will be arrayed by their allowable case mix A operating cost per diem.

In calculating a nursing facility's operating cost per diem for this purpose, the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in Section 8.020, item B, shall be excluded.

For those nursing facilities in each grouping whose case mix A operating cost per diem:

(a) is at or below the median of the array, the nursing facility's allowable operating cost per diem for each case mix category shall be limited to the lesser of the prior reporting year's allowable operating cost per diem by computing nursing facility payment rates based on the payment rate methodology in effect on March 1, 1996 (see approved State plan amendment TN 99-10, Section 11.045), plus the inflation factor as established in item D, subitem (2), increased by two percentage points, or the current reporting year's corresponding allowable operating cost per diem; or

(b) is above the median of the array, the nursing facility's allowable operating cost per diem for each case mix category shall be limited to the lesser of the prior reporting year's allowable operating cost per diem by computing nursing facility payment rates based on the payment rate methodology in effect on March 1, 1996 (see approved State plan amendment TN 99-10, Section 11.045) plus the inflation factor as established in item D, subitem (2), increased by one percentage point, or the current reporting year's corresponding allowable operating cost per diem.

(c) For the purposes of this item, if a nursing facility reports on its cost report a reduction in cost due to a refund or credit for a rate year beginning on or after July 1, 1998, the Department will increase that facility's spend-up limit for the rate year following the current rate year by the amount of the cost reduction divided by its resident days for the reporting year preceding the rate year in which the adjustment is to be made.

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B. For rate years beginning on July 1, 1997 or July 1, 1998, the allowable operating cost per diem for high cost nursing facilities shall be limited as described. After application of the limits in item A to each nursing facility's operating cost per diem, nursing facilities shall be divided into two groups, freestanding or nonfreestanding, and arrayed within these groupings according to allowable case mix A operating cost per diem.

In calculating a nursing facility's operating cost per diem for this purpose, the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in Section 8.020, item B, shall be excluded.

For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 1.0 standard deviation above the median, the allowable operating cost per diem will be reduced by three percent. For those nursing facilities in each grouping whose case mix A operating cost per diem exceeds 0.5 standard deviation above the median but is less than or equal to 1.0 standard deviation above the median, the allowable operating cost per diem will be reduced by two percent. However, in no case shall a nursing facility's operating cost per diem be reduced below its grouping's limit established at 0.5 standard deviations above the median.

C. For rate years beginning on July 1, 1997 or July 1, 1998, a nursing facility's efficiency incentive shall be determined by first computing the allowable difference, which is the lesser of \$4.50 or the amount by which the facility's other operating cost limit exceeds its nonadjusted other operating cost per diem for that rate year. Then, the efficiency incentive is computed by:

(1) Subtracting the allowable difference from \$4.50 and dividing the result by \$4.50;

(2) Multiplying 0.20 by the ratio resulting from subitem (1);

(3) Adding 0.50 to the result from subitem (2); and

(4) Multiplying the result from subitem (3) times the allowable difference.

The nursing facility's efficiency incentive payment shall be the lesser of \$2.25 or the product obtained through calculations of subitems (1) through (4).

D. For rate years beginning on July 1, 1997 or July 1, 1998, the forecasted price index for a nursing facility's allowable operating cost per diem shall be determined under subitems (1) and (2) using the change in the Consumer Price Index - All Items (United States city average) (CPI-U) as forecasted by Data Resources, Inc. The indices as forecasted in the fourth quarter of the calendar year preceding the rate year shall be used.

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(1) The CPI-U forecasted index for allowable operating cost per diems shall be based on the 21-month period from the midpoint of the nursing facility's reporting year to the midpoint of the rate year following the reporting year.

(2) For rate years beginning on July 1, 1997 or July 1, 1998, the forecasted index for operating cost limits referred to in Section 10.010, item B, shall be based on the CPI-U for the 12-month period between the midpoints of the two reporting years preceding the rate year.

E. After applying these provisions for the respective rate years, allowable operating cost per diems shall be indexed by the inflation factor provided for in item D, subitem (1), and the nursing facility's efficiency incentive as calculated in item C shall be added.

F. For the rate years beginning on July 1, 1997, July 1, 1998, and July 1, 1999, a nursing facility licensed for 40 beds effective May 1, 1992, with a subsequent increase of 20 Medicare/Medicaid certified beds, effective January 26, 1993, in accordance with an increase in licensure is exempt from Section 11.046, items A to D, and Section 11.047, items A to D, respectively.

G. For the rate year beginning July 1, 1997, for a nursing facility that submitted a proposal after January 13, 1994, involving replacement of 102 licensed and certified beds and relocation of the existing first facility to a new location, that was approved under the State's moratorium exception process, the operating cost payment rates for the new location shall be determined pursuant to Section 12.000. The relocation approved under the State's moratorium exception process, and the rate determination allowed under this item must meet the cost neutrality requirements of the State's moratorium exception process. Items A and B do not apply until the second rate year after the settle-up cost report is filed. Notwithstanding Section 16.000, payments in lieu of real estate taxes and special assessments payable by the new location, a non profit corporation, as part of tax increment financing, shall be included in the payment rates determined under this section for all subsequent rate years.

H. For the rate year beginning July 1, 1997, for a nursing facility licensed for 94 beds on September 30, 1996 that applied in October 1993 for approval of a total replacement under the State's moratorium exception process and completed the approved replacement in June 1995, the Department shall compute the payment rate with other operating cost spend-up limit under item A. This amount is increased by \$3.98, and, after computing the facility's payment rate according to this Section, the Department shall make a one-year positive rate adjustment of \$3.19 for operating costs related to the newly constructed total replacement, without application of items A and B. The facility's per diem, before the \$3.19 adjustment, shall be used as the prior reporting year's allowable operating cost per diem for payment rate calculation for the rate year beginning July 1, 1998. A facility described in this item is exempt from item B for the rate years beginning July 1, 1997 and July 1, 1998.

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I. For the purpose of applying the limit in item A, a nursing facility in Kandiyohi County licensed for 86 beds that was granted hospital-attached status on December 1, 1994, shall have the prior year's allowable care-related per diem increased by \$3.207 and the prior year's other operating cost per diem increased by \$4.777 before adding the inflation in item D, subitem (2), for the rate year beginning on July 1, 1997.

J. For the purpose of applying the limit stated in item A, a 117 bed nursing facility located in Pine County shall have the prior year's allowable other operating cost per diem increased by \$1.50 before adding the inflation in item D, subitem (2), for the rate year beginning on July 1, 1997.

K. For the purpose of applying the limit under item A, a nursing facility located in Hibbing licensed for 192 beds shall have the prior year's allowable other operating cost per diem increased by \$2.67 before adding the inflation in item D, subitem (2), for the rate year beginning on July 1, 1997.

L. A 49 bed nursing facility located in Norman County and a 129 bed nursing facility located in Polk County destroyed by the spring floods of 1997 are eligible for total replacement. These nursing facilities shall have their operating cost payment rates established using the provisions in Section 12.000, and this State plan amendment, except that the limits in items A and B of this section shall not apply until after the second rate year after the settle-up cost report is filed. The property-related payment rates are determined pursuant to Section 15.000, taking into account any federal or state flood-related loans or grants.

M. (1) After computing the payment rate of the 302 bed nursing facility in Section 11.046, item H, the Department must make a one-year rate adjustment of \$8.62 to the facility's contract payment rate for the rate effect of operating cost changes associated with the facility's 1994 downsizing project.

(2) The Department must also add 35 cents to the facility's base property related payment rate for the rate effect of reducing its licensed capacity to 290 beds from 302 beds and must add 83 cents to the facility's real estate tax and special assessment payment rate for payments in lieu of real estate taxes. The adjustments in this subitem must remain in effect for the duration of the facility's contract.

**SECTION 11.048 Changes to nursing facility reimbursement beginning July 1, 1998.**

A. For the purpose of applying the limit in Section 11.047, item A, a nursing facility in Hennepin county licensed for 181 beds on September 30, 1996, has the prior year's allowable care-related per diem increased by \$1.455 and the prior year's other operating cost per diem increased by \$0.439 before adding the inflation in Section 11.047, item D, subitem

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(2), for the rate year beginning July 1, 1998.

B. For the purpose of applying the limit in Section 11.047, item A, a nursing facility in Hennepin county licensed for 161 beds on September 30, 1996, has the prior year's allowable care-related per diem increased by \$1.154 and the prior year's other operating cost per diem increased by \$0.256 before adding the inflation in Section 11.047, item D, subitem (2), for the rate year beginning July 1, 1998.

C. For the purpose of applying the limit in Section 11.047, item A, a nursing facility in Ramsey county licensed for 176 beds on September 30, 1996, has the prior year's allowable care-related per diem increased by \$.083 and the prior year's other operating cost per diem increased by \$0.272 before adding the inflation in Section 11.047, item D, subitem (2), for the rate year beginning July 1, 1998.

D. For the purpose of applying the limit in Section 11.047, item A, a nursing facility in Brown county licensed for 86 beds on September 30, 1996, has the prior year's allowable care-related per diem increased by \$0.850 and the prior year's other operating cost per diem increased by \$0.275 before adding the inflation in Section 11.047, item D, subitem (2), for the rate year beginning July 1, 1998.

E. For the rate year beginning July 1, 1998, the Department will compute the payment rate for a nursing facility, which was licensed for 110 beds on May 1, 1997, was granted approval in January 1994 for a replacement and remodeling project under the moratorium exception process and completed the approval replacement and remodeling project on May 14, 1997, by increasing the other operating cost spend-up limit under item A by \$1.64. After computing the facility's payment rate for the rate year beginning July 1, 1998, according to this section, the Department will make a one-year positive rate adjustment of \$.48 for increased real estate taxes resulting from completion of the moratorium exception project, without application of items A and B.

F. For the rate year beginning July 1, 1998, the Department will compute the payment rate for a nursing facility exempted from the care-related limits under Section 19.030, with a minimum of three-quarters of its beds licensed to provide residential services for the physically handicapped, with the care-related spend-up limit of Section 11.047, item A, increased by \$13.21 for the rate year beginning July 1, 1998, without application of Section 11.047, item B. For rate years beginning on or after July 1, 1999, the Department will exclude that amount in calculating the facility's operating cost per diem for purposes of applying Section 11.047, item B.

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G. For the rate year beginning July 1, 1998, a nursing facility in Canby, Minnesota, licensed for 75 beds will be reimbursed without the limitation imposed in Section 11.047, item A, and for rate years beginning on or after July 1, 1999, its base costs will be calculated on the basis of its September 30, 1997 cost report.

H. Effective July 1, 1998, the nursing facility reimbursement changes in subitems (1) and (2) will apply in the sequence specified in this section.

(1) For rate years beginning on July 1, 1998, the operating cost limits established by Section 10.020, item B, subitems (1) through (3); Section 15.138; and any previously effective corresponding limits in state law or rule do not apply, except that these cost limits will still be calculated for purposes of determining efficiency incentive per diems in Section 11.047, item D. For rate years beginning on July 1, 1998, the total operating cost payment rates for a nursing facility are the greater of the total operating cost payment rates determined under this section or the total operating cost payment rates in effect on June 30, 1998, subject to rate adjustments due to field audit or rate appeal resolution.

(2) For rate years beginning on July 1, 1998, the operating cost per diem in Section 11.047, item A, subitem (1), units (a) and (b), is the sum of the care-related and other operating per diems for a given case mix class. Any reductions to the combined operating per diem are divided proportionally between the care-related and other operating cost per diems.

I. For rate years beginning on July 1, 1998, the Department will modify the determination of the spend-up limits in Section 11.047, item A, by indexing each group's previous year's median value by the factor in Section 11.0147, item D, subitem (2), plus one percentage point.

J. For rate years beginning on July 1, 1998, the Department will modify the determination of the high cost limits in Section 11.047, item B, by indexing each group's previous year's high cost per diem limits at .5 and one standard deviations above the median by the factor in Section 11.047, item D, subitem (2), plus one percentage point.

**SECTION 11.049 Changes to nursing facility reimbursement beginning July 1, 1999.**

A. The base operating rate is the rate for the rate year beginning July 1, 1998.

B. For the rate year beginning July 1, 1999, the Department will make an adjustment to the total operating payment rate for a nursing facility paid by the prospective rate-setting methodology described in Sections 1.000 to 20.000 or by the contractual rate-setting methodology described in Section 21.000 that submits a plan, approved by the Department, in accordance with subitem (2). Total operating costs will be separated into compensation-related

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costs and all other costs. Compensation-related costs include salaries, payroll taxes, and fringe benefits for all employees except management fees, the administrator, and central office staff.

(1) For the rate year beginning July 1, 1999, the payment rate is increased by 4.843 percent of compensation-related costs and 3.446 percent of all other operating costs. A nursing facility's final 1998 Medicare cost report will be used to calculate the adjustment.

(2) To receive the total operating payment rate adjustment, a nursing facility must apply to the Department. The application must contain a plan by which the nursing facility will distribute the compensation-related portion of the payment rate adjustment to employees of the nursing facility. For a nursing facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan.

(a) The Department will review the plan to ensure that the payment rate adjustment per diem is used as provided in subitem (1).

(b) To be eligible, a nursing facility must submit its plan for the compensation distribution by December 31 each year. A nursing facility may amend its plan for the second rate year by submitting a revised plan by December 31, 2000. If a nursing facility's plan for compensation distribution is effective for its employees after July 1 of the year that the funds are available, the payment rate adjustment per diem shall be effective the same date as its plan.

(3) The payment rate adjustment for each nursing facility will be determined under clauses (a) or (b).

(a) For a nursing facility that reports salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the Department will determine the payment rate adjustment using the categories listed above multiplied by the rate increases in subitem (1), and then dividing the resulting amount by the nursing facility's actual resident days. In determining the amount of a payment rate adjustment for a nursing facility paid under Section 21.000, the Department must determine the proportions of the nursing facility's rates that are compensation-related costs and all other operating costs based on its most recent cost report; or

(b) For a nursing facility that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the payment rate adjustment will be computed using the nursing facility's total operating costs, separated into the categories listed above in proportion to the weighted average of all nursing facilities determined under subitem (3), clause (a), multiplied by the rate increases in subitem (1), and